UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

PREMIER HOLDING COMPANY, INC. d/b/a PREMIER ELECTRIC Employer

and Case 19-RC-089887

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION 73 Petitioner

DECISION AND DIRECTION

The National Labor Relations Board has considered determinative challenges in a mail ballot election held between January 7 and 28, 2013, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 5 for and 4 against the Petitioner, with 4 challenged ballots, a sufficient number to affect the results.¹

The Board has reviewed the record in light of the exceptions and briefs, and has adopted the hearing officer's findings² and recommendations.³

¹ No party has excepted to the hearing officer's recommendation that the challenge to the ballot of Eric Ward be overruled and that his ballot should be counted. Also, the parties stipulated that challenged voter Anthony Beck was ineligible and that his ballot should not be counted.

² The Petitioner has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings.

³ In adopting the hearing officer's recommendation to overrule the challenges to the ballots of Todd Jost and William Paradee, we find no merit in the Petitioner's contention that the hearing officer erred by applying the test for determining supervisory

DIRECTION

It is directed that the Regional Director for Region 19 shall, within 14 days of the date of this Decision and Direction, open and count the ballots of Todd Jost, William Paradee, and Eric Ward. The Regional Director shall then serve on the parties a revised tally of ballots and issue the appropriate certification.

Dated, Washington, D.C., June 26, 2013.

| | Mark Gaston Pearce, | Chairman | |
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| | Richard F. Griffin, Jr., | Member | |
| | Sharon Block, | Member | |
| (SEAL) | NATIONAL LABOR RELAT | NATIONAL LABOR RELATIONS BOARD | |

status in *Oakwood Healthcare, Inc.*, 348 NLRB 686, 691 (2006), which involved the health care industry, rather than cases involving the electrical contracting industry. It is well established that *Oakwood Healthcare* "articulates the Board's current test for determining supervisory assignment and responsible direction," *Brusco Tug and Barge, Inc.*, 359 NLRB No. 43, slip op. at 9 (2012), and applies in all cases, not merely those involving the healthcare industry. See, e.g., *Entergy Mississippi, Inc.*, 357 NLRB 178 (2011) (applying *Oakwood Healthcare* to determine if electric utility dispatchers were statutory supervisors).